

TOBACCO PRODUCTS TAX ACT (EXCERPT)
Act 327 of 1993

205.426 Records and statements; markings required on shipping case, box, or container; examination of records; invoices or bills of lading in possession of transporter; permit for transportation of tobacco product.

Sec. 6. (1) A manufacturer, wholesaler, secondary wholesaler, vending machine operator, transportation company, unclassified acquirer, or retailer shall keep a complete and accurate record of each tobacco product manufactured, purchased, or otherwise acquired. Except for a manufacturer, the records shall include a written statement containing the name and address of both the seller and the purchaser, the date of delivery, the quantity, the trade name or brand, and the price paid for each tobacco product purchased. A licensee shall keep as part of the records a true copy of all purchase orders, invoices, bills of lading, and other written matter substantiating the purchase or acquisition of each tobacco product at the location where the tobacco product is stored or offered for sale. A retailer shall keep as part of the records a true copy of all purchase orders, invoices, bills of lading, and other written matter substantiating the purchase or acquisition of each tobacco product at the location where the tobacco product is offered for sale for a period of 4 months from the date of purchase or acquisition. The department may, by giving prior written approval, authorize a person licensed under this act or a retailer to maintain records in a manner other than that required by this subsection. Other records shall be kept by these persons as the department reasonably prescribes.

(2) A manufacturer, wholesaler, unclassified acquirer, and secondary wholesaler shall deliver with each sale or consignment of a tobacco product a written statement containing the name or trade name and address of both the seller and the purchaser, the date of delivery, the quantity, and the trade name or brand of the tobacco product, correctly itemizing the prices paid for each brand purchased, and shall retain a duplicate of each statement.

(3) A vending machine operator shall keep a detailed record of each vending machine owned for the sale of tobacco products showing the location of the machine, the date of placing the machine on the location, the quantity of each tobacco product placed in the machine, the date when placed there, and the amount of the commission paid or earned on sales through the vending machine. When filling or refilling the vending machine, the operator shall deliver to the owner or tenant occupying the premises where the machine is located a written statement containing his or her own name and address, the name and address of the owner or the tenant, the date when the machine was filled, and the quantity of each brand of tobacco product sold from the machine since the date when tobacco products were last placed in the machine. A person in possession of premises where a vending machine is located shall keep a record of each tobacco product sold through the vending machine located on the premises and the amount of commission paid by the person operating the vending machine. The records shall consist of written statements required to be given by each person operating a vending machine for the sale of tobacco products as provided in this section.

(4) A licensee under this act shall not issue or accept a written statement or invoice that is known to the licensee to contain a statement or omission that falsely indicates the name of the customer, the type, trade name, or brand of merchandise, the quantity of each type, trade name, or brand of merchandise, the prices, the discounts, the date of the transaction, or the terms of sale. A person shall not use a device or game of chance to aid, promote, or induce sales or purchases of a tobacco product, or give a tobacco product in connection with a device or game of chance.

(5) All statements and other records required by this section shall be in a form prescribed by the department and shall be preserved for a period of 4 years and offered for inspection at any time upon oral or written demand by the department or its authorized agent by every wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, and retailer.

(6) If a tobacco product other than cigarettes is received or acquired within this state by a wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, or retailer, each original manufacturer's shipping case shall bear the name and address of the person making the first purchase or any other markings the department prescribes. If a tobacco product other than cigarettes is found in a place of business or otherwise in the possession of a wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, transporter, or retailer without proper markings on the shipping case, box, or container of the tobacco product or if an individual package of cigarettes is found without a stamp affixed as provided under this act or if a tobacco product is found without proper substantiation by invoices or other records as required by this section, the presumption shall be that the tobacco product is kept in violation of this act. If a tobacco product is shipped outside the state, the licensee shipping the tobacco product shall cause to be placed on every shipping case or other container in which the tobacco product is shipped the name and address of the consignee or purchaser to whom the shipment is made outside of the state. The department may require

reports from a common carrier who transports a tobacco product to a point within this state from another person who, under contract, transports a tobacco product, or from a bonded warehouseperson or bailee who has in his or her possession a tobacco product. A carrier, bailee, warehouseperson, or other person shall permit the inspection of the tobacco products and examination by the department or its duly authorized agent of any records relating to the shipment of a tobacco product into, from, or within the state.

(7) A transporter or other licensee transporting, possessing, or acquiring for the purpose of transporting a tobacco product upon a public highway, road, or street of this state shall have in his or her actual possession invoices or bills of lading containing the name and address of both the seller and the purchaser, the date of delivery, the name and address of the transporter, the quantity and trade name or brand of each tobacco product, the price paid for each trade name or brand in the transporter's possession or custody, and the license as prescribed under this act.

(8) A transporter desiring to possess or acquire for transportation or transport a tobacco product upon a highway, road, or street of this state shall obtain a permit from the department authorizing the transporter to possess or acquire for transportation or transport tobacco products and shall have the permit in his or her possession while the tobacco product is in his or her possession. This permit shall be obtained for each load being transported and shall contain a statement setting forth the name and address of the purchaser, seller, and transporter, the license number of the purchaser, the date of the delivery of the tobacco product or date of importation into this state, the route to be followed if a tobacco product is being transported from an out-of-state source, and any other information the department requires. The department shall provide a permit on a form prescribed by it upon the application of a transporter with the remittance of a fee of \$1.00. If a transporter transports a tobacco product into this state, the transporter shall stop at the nearest state police post within this state on the route authorized by the permit and disclose the tobacco products in his or her possession and the papers required by this section to be in his or her possession.

History: 1993, Act 327, Eff. Mar. 15, 1994;—Am. 1997, Act 187, Eff. Apr. 15, 1998.